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EXECUTION—AUTOMOBILE NOT EXEMPT AS "WAGON."—Replevin to obtain automobile taken under execution against physician whose only vehicle was the machine in question. *Held*, the automobile was properly taken under execution, not being included in exemptions mentioned in Shannon's Code (§ 3794) providing that there shall be exempt from execution, seizure, or attachment, " * * * one, two, or one one-horse wagon and harness * * *." *Prater v. Riechman* (Tenn.), 187 S. W. 305.

In reviewing the case the court said, "The public policy underlying our exemption statutes for heads of families is that a creditor should be restrained from having satisfaction of his debt out of certain kinds of property which are necessary to the maintenance of the families of improvident or unfortunate debtors." The court, professing to follow this doctrine, decided that an automobile is property so dissimilar in kind from any of the articles named in the statute, that it cannot be held to be embraced therein, unless the court should depart from legitimate construction and engage in judicial legislation. In reaching that conclusion, the court stated,—“The automobile is a product of a civilization advanced much beyond the date of our exemption statute; and it is, as a means of transportation, a different class of vehicle altogether from those named in our statute.” This strict construction of the statute is very generally opposed by other courts holding that an automobile serves the purpose of a wagon or other vehicle, and under a statute making a carriage exempt, an automobile is a carriage within the meaning of the statute. *Lames v. Armstrong*, 163 Iowa 327, 144 N. W. 1, 49 L. R. A. (N. S.) 691; *Parker v. Sweet* (Texas), 127 S. W. 881; *Trenton v. Towan*, 44 N. J. Eq. 702, 70 Atl. 606; *Peevehouse v. Smith* (Texas), 152 S. W. 1196; *Hammond v. Pickett* (Texas), 158 S. W. 174; *Patten v. Sturgeon*, 214 Fed. 65. It has been held that a physician's vehicle and harness reasonably necessary for the practice of his profession are exempt from execution. *Richards v. Hubbard*, 59 N. H. 158, 47 Am. Rep. 188; *Eastman v. Caswell*, 8 How. Prac. 75; *Van Buren v. Lope*, 29 Barb. 388. Also, that the only vehicle owned by the defendant in execution is exempt. *Nichols v. Claiborne*, 39 Texas 363. Even “a bicycle, habitually used by a painter, paperhanger, and billposter to earn a living, he being the head of the family, is exempt, though such vehicles were not known when the statute was enacted.” *Roberts v. Parker*, 117 Iowa 389, 90 N. W. 744. As opposed to the general attitude taken by the Tennessee court, the better view, upheld by the authorities generally, may be expressed thus: “The adaptation and actual use of an article, even if not absolutely necessary to enable one to carry on his principal business, though he have two kinds of business, and though his business is not extensive, and does not occupy his whole time, is sufficient to exempt such article.” *Kenyon v. Baker*, 16 Mich. 373, 97 Am. Dec. 158. See generally, comment on *Patten v. Sturgeon*, *supra*, in 13 MICH. L. REV. 152.

MINES AND MINING—ANTICLINE AS APEX GIVING EXTRALATERAL RIGHT.—A mineral-bearing vein passed under the surface of plaintiff's mining claim, sloping up from south to north at an angle varying from 17 to 30 degrees from the horizontal; it passed through the north side-line plane of plaintiff's claim

into defendant's adjoining claim, continuing its upward course to a point where it sharply altered its direction and began to slope downward to the north at an angle of about 17 degrees from the horizontal, thus forming an anticlinal fold roughly approximating the shape of the roof of a house. At some points the two sloping members of this fold united in a ridge; at other places the two members were as much as 20 feet apart. This ridge (or, at points where the two members of the fold did not unite, the highest parts of the two members) passed through the east end-line plane and the north side-line plane of defendant's claim; defendant, claiming this ridge to be an apex, has exercised its extralateral right and mined in the southerly member of the anticlinal fold under the surface of plaintiff's claim. Plaintiff, claiming that the ridge is not an apex, sues for damages and an injunction. *Held*, that the ridge is an apex and that plaintiff, owning the apex, can follow the vein on its downward course in both directions under the property of other locators. *Jim Butler Tonopah Mining Co. v. West End Consol. Mining Co.* (Nev. 1916), 158 Pac. 876.

§ 2322 of the UNITED STATES REVISED STATUTES gives to a mining locator, whose location includes the top or apex of any vein, the right to follow such vein on its downward course outside the vertical side-lines of the location, but the statute contains no definition of "top or apex," and the terms have been left to judicial construction. Nearly every definition of the terms has included a statement that the top or apex must be the highest point of the vein where it comes to, or nearest to, the surface of the earth "and where it is broken on the edge, so as to appear to be the beginning or end of the vein." This language was used by Judge GODDARD in charging the jury in *Iron Silver Mining Co. v. Louisville*, and has been quoted in the leading case of *Duggan v. Davey*, 4 Dak. 110, 26 N. W. 887, and in numerous later cases. See *I BARRINGER & ADAMS, MINES & MINING*, 441, 442; *COSTIGAN, MINING LAW*, 139; *EMERY, MINER'S MANUAL*, 72; *LINDLEY, MINES* (3 ed.), §§ 308-9; *MORRISON, MINING RIGHTS* (14 ed.) 194; *SNYDER, MINES*, § 796; and the recent case of *Stewart Mining Co. v. Ontario Mining Co.*, 237 U. S. 350, 35 Sup. Ct. 610, 59 L. ed. 989. The unanimity of the courts and text-writers in using the term "edge" in defining "apex" led the plaintiff in the principal case to insist that there could be no apex without an edge, but the court pointed out that in all of the cases heretofore decided there had been an edge at the highest point of the vein, and that the use of the term "edge" was correct *as applied in those cases*, but was not necessary to a proper definition under other circumstances. Mr. LINDLEY, in his work on *MINES* (§ 309) makes the categorical statement that an anticlinal fold cannot be an apex, and as counsel for the plaintiff in the principal case he strove to maintain that position, but was unable to convince the court that his position was correct.

NEGLIGENCE—EXPLOSIVES.—The city council of the city of P appointed two members of the board of Aldermen and four members of the council to act as a special joint committee to arrange for a Fourth of July celebration. This committee, without authority, admitted five members of a Business Men's Association to act with them in the matter of the celebration. A special sub-